



FOR IMMEDIATE RELEASE: May 15, 2003

HECB to hold public hearings on student residency rules

OLYMPIA—The Higher Education Coordinating Board (HECB) will hold two public hearings later this month on proposed changes to student residency requirements. The meetings are scheduled for May 27 at the University of Washington in Seattle, and May 30 at Washington State University in Pullman.

Proposed changes would include a stronger proviso that a student living in Washington must reside in the state for purposes other than education, as well as a narrower definition of “financial independence.”

The public hearings are the next step in a process that began Feb. 26 when the HECB filed a formal notice to revise the Washington Administrative Code (WAC) on student residency. State law directs the HECB to adopt rules establishing residency status for tuition purposes.

Board action on the proposed changes is scheduled for June 12 in Olympia. If approved, the new rules would take effect July 14, and would apply in fall 2003.

The Seattle hearing will be held Tuesday, May 27th, at the University of Washington, Schmitz Hall, Room 228, from 1 to 4 p.m.

The hearing in Pullman will take place Friday, May 30^h, at Washington State University, Lighty Student Services Building, Room 405, from 1 to 4 p.m.

Note: The public hearings are not related to legislation recently signed into law by Gov. Locke (House Bill 1079) that allows undocumented students to qualify for in-state tuition, provided they meet other residency requirements. Students who have specific questions about their residency status should contact their institution’s residency offices.

###

For more information: Kris Betker, 360.753.7817, or krisb@hecb.wa.gov

Questions and answers on proposed changes to student residency rules

What is the role of the HECB in setting residency rules?

The HECB adopts rules and regulations for determining a student's residency status for tuition purposes after considering advice from representatives of the state's institutions and the state attorney general.

What are the current rules governing student residency?

Current rules allow financially independent students to pay resident tuition rates after establishing domicile (currently defined as a "person's true, fixed, and permanent home and place of habitation") in the state for one year. A dependent student whose parent(s) or legal guardian have established domicile for one year also would be allowed to pay in-state tuition rates.

WAC 250-18-030 further specifies that nonresident students enrolled for more than six hours per semester or quarter are presumed to be in the state of Washington for primarily educational purposes – which cannot be counted toward the one-year period required for domicile "unless such student proves that he or she has, in fact, established a bona fide domicile in this state for purposes other than educational."

What are the proposed changes to the rules?

The proposed changes include language intended to make it more difficult for students to prove financial independence. For example, trust funds, which have been considered evidence of financial independence, would instead be considered evidence of financial dependence.

Students also would be required to demonstrate "by evidence satisfactory to the institution that he or she has met, through his or her income, the expenses associated with college tuition and living for the current calendar year and the calendar year immediately prior to the year in which application is made. Personal loans, PLUS loans (parent loan for undergraduate students), gifts, and cash earnings would not be counted as income in this calculation. Financial aid grants, scholarships and loans authorized by the financial aid office in the student's name may be considered as personal income."

Changes to the following sections of the Washington Administrative Code are being considered by the HECB:

250-18-015: Definitions

250-18-020: Student Classification

250-18-025: Classification Procedure

250-18-030: Establishment of a Domicile

250-18-035: Evidence of Financial Independence

250-18-040: Evidence of Financial Dependence

250-18-070: Prospective Application of Amendments (new section)

AMENDATORY SECTION (Amending Order 10-82, Resolution No. 83-1, filed 9/8/82)

WAC 250-18-015 Definitions. (1) The term "institution" shall mean a public university, college, or community college within the state of Washington.

(2) The term "domicile" shall denote a person's true, fixed, and permanent home and place of habitation for other than educational purposes. It is the place where he or she intends to remain, and to which he or she expects to return when he or she leaves without intending to establish a new domicile elsewhere.

(3) The term "reside" shall mean the maintenance and occupancy of a primary residence in the state of Washington.

(4) The term "financially independent" shall be determined according to WAC 250-18-035.

(5) The term "dependent" shall mean a person who is not financially independent.

(6) The term "resident" for tuition and fee purposes shall be determined according to WAC 250-18-020.

(7) The term "nonresident" for tuition and fee purposes shall be determined according to WAC 250-18-020.

(8) The term "recovery of fees" shall apply to the amounts due to the institution or the student as a result of improper classification.

(9) The term "civil service" shall mean Washington state or federal government nonmilitary employment.

AMENDATORY SECTION (Amending WSR 98-08-004, filed 3/18/98, effective 4/18/98)

WAC 250-18-020 Student classification. (1) For a student to be classified as a "resident" for tuition and fee purposes, he or she (~~shall~~) must prove by evidence of a sufficient quantity and quality to satisfy the institution that he or she:

(a)(i) (~~Have~~) Has established a bona fide domicile in the state of Washington primarily for purposes other than educational for the period of one year immediately prior to commencement of the first day of the semester or quarter for which he or she has registered at any institution; and

(ii) (~~Be~~) Is financially independent; or

(b) (~~Be~~) Is a dependent student, (~~with~~) one or both of whose parents or legal guardians have maintained a bona fide

domicile in the state of Washington for at least one year immediately prior to commencement of the semester or quarter for which the student has registered at any institution(~~(+or~~

~~(+e))~~) provided that any student who has spent at least seventy-five percent of both his or her junior and senior years in high school in this state, whose parents or legal guardians have been domiciled in the state for a period of at least one year within the five-year period before the student graduates from high school, and who (~~(enrolls))~~) has enrolled in a public institution of higher education within six months of leaving high school, shall be considered a resident only for as long as the student remains continuously enrolled for three quarters or two semesters in any calendar year; or

(~~(d) Be~~) (c) Is the spouse or dependent of an active duty military person stationed in the state of Washington;

(~~(e) Be~~) (d) Is a student of an out-of-state institution of higher education who is attending a Washington state institution of higher education pursuant to a home tuition program agreement under RCW 28B.15.725; or

(~~(f) Be~~) (e) Is a student domiciled for one year in one or a combination of the following states: Idaho, Montana, Oregon, or Washington, and (~~(be))~~) is a member of one of the following American Indian tribes:

- (i) Colville Confederated Tribes;
- (ii) Confederated Tribes of the Chehalis Reservation;
- (iii) Hoh Indian Tribe;
- (iv) Jamestown S'Klallam Tribe;
- (v) Kalispel Tribe of Indians;
- (vi) Lower Elwha Klallam Tribe;
- (vii) Lummi Nation;
- (viii) Makah Indian Tribe;
- (ix) Muckleshoot Indian Tribe;
- (x) Nisqually Indian Tribe;
- (xi) Nooksack Indian Tribe;
- (xii) Port Gamble S'Klallam Community;
- (xiii) Puyallup Tribe of Indians;
- (xiv) Quileute Tribe;
- (xv) Quinault Indian Nation;
- (xvi) Confederated Tribes of Salish Kootenai;
- (xvii) Sauk Suiattle Indian Nation;
- (xviii) Shoalwater Bay Indian Tribe;
- (xix) Skokomish Indian Tribe;
- (xx) Snoqualmie Tribe;
- (xxi) Spokane Tribe of Indians;
- (xxii) Squaxin Island Tribe;
- (xxiii) Stillaguamish Tribe;
- (xxiv) Suquamish Tribe of the Port Madison Reservation;
- (xxv) Swinomish Indian Community;
- (xxvi) Tulalip Tribes;
- (xxvii) Upper Skagit Indian Tribe;
- (xxviii) Yakama Indian Nation;

(xxix) Coeur d'Alene Tribe;
(xxx) Confederated Tribes of Umatilla Indian Reservation;
(xxxii) Confederated Tribes of Warm Springs;
(xxxiii) Kootenai Tribe; and
(xxxiiii) Nez Perce Tribe.

(2) A student shall be classified as a "nonresident" for tuition and fee purposes if he or she does not qualify as a resident student under the provisions of subsection (1) of this section. A nonresident student shall include a student if he or she:

(a) Will be financially dependent for the current year or was financially dependent for the calendar year prior to the year in which application is made and who does not have a parent or legally appointed guardian who has maintained a bona fide domicile in the state of Washington for one year immediately prior to the commencement of the semester or quarter for which the student has registered at an institution;

(b) Attends an institution with financial assistance provided by another state or governmental unit or agency thereof wherein residency in that state is a continuing qualification for such financial assistance, such nonresidency continuing for one year after the completion of the quarter or semester for which financial assistance is provided. Such financial assistance relates to that which is provided by another state, governmental unit((+,+)) or agency thereof for direct or indirect educational purposes and does not include retirements, pensions, or other noneducational related income. A student loan guaranteed by another state or governmental unit or agency thereof on the basis of eligibility as a resident of that state is included within the term "financial assistance;"

(c) Is not a citizen of the United States of America, unless such person holds permanent or temporary resident immigration status, "refugee - parolee," or "conditional entrant" status or is not otherwise permanently residing in the United States under color of law and further meets and complies with all applicable requirements of WAC 250-18-030 and 250-18-035.

(3) A person does not lose a domicile in the state of Washington by reason of residency in any state or country while a member of the civil or military service of this state or of the United States, nor while engaged in the navigation of the waters of this state or of the United States or of the high seas if that person returns to the state of Washington within one year of discharge from said service with the intent to be domiciled in the state of Washington.

(4) Any resident dependent student who remains in this state when such student's parents or legal guardians, having theretofore((,+)) been domiciled in this state for a period of one year immediately prior to commencement of the first day of the semester or quarter for which the student has registered at any institution, move from this state, shall be entitled to

continued classification as a resident student so long as such student is continuously enrolled during the academic year.

AMENDATORY SECTION (Amending Order 2-83, Resolution No. 83-65, filed 6/17/83)

WAC 250-18-025 Classification procedure. (1) After a student has registered at any institution as a nonresident, such student's classification shall remain unchanged in the absence of ~~((satisfactory))~~ evidence of a sufficient quantity and quality to satisfy the institution to the contrary. The provision of such evidence to the contrary may be initiated by the student or the institution.

(2) Application for a change in classification shall be accepted up to the thirtieth calendar day following the first day of the instruction of the quarter or semester for which application is made. Applications made after that date in any quarter or semester shall be considered to have been filed as of the first day of the subsequent quarter or semester.

(3) Any change in classification, either nonresident to resident, or the reverse, shall be based upon written evidence maintained in the files of the institution.

(4) Approval of an application for resident status shall be made only after satisfaction that the requirements of domicile and independency or dependency have been made in compliance with RCW 28B.15.012 and WAC 250-18-030 and 250-18-035. Reclassification from nonresident to resident status preliminarily approved sixty days or more prior to the satisfaction of a one-year durational domicile shall be supplemented with additional documented proof of domicile if deemed necessary by the institution prior to final approval.

(5) The burden of proof that a student, parent, or legally appointed guardian has established a domicile in the state of Washington primarily for purposes other than educational lies with the student.

(6) For any student classified as a resident or authorized to pay resident fees or exempted from the payment of the nonresident differential on a basis other than an established domicile in the state of Washington, the fee paying status of such student shall be subject to determination each term on the basis of chapter 28B.15 RCW.

AMENDATORY SECTION (Amending Order 2-83, Resolution No. 83-65, filed 6/17/83)

WAC 250-18-030 Establishment of a domicile. The domicile of any person shall be determined according to the individual's overall situation and circumstances (~~((rather than by marital status or sex. The establishment of a domicile))~~) and is not determined on the basis of a single factor; nor is a predetermined number of factors required. Institutions shall require evidence of a Washington domicile that (~~((would reasonably))~~) is of sufficient quantity and quality to negate the existence of a domicile in a state other than Washington.

A nonresident student who is enrolled for more than six hours per semester or quarter shall be presumed to be in the state of Washington for primarily educational purposes. Such period of enrollment shall not be counted toward the establishment of a bona fide domicile of one year in this state unless such student proves that he or she has, in fact, established a bona fide domicile in this state primarily for purposes other than educational.

To aid the institutions in determining whether a student, parent, legally appointed guardian, or the person having legal custody of a student has established a bona fide domicile in the state of Washington primarily for purposes other than educational, the following factors are to be considered(~~(-~~

~~(1) Registration or payment of taxes or fees on a motor vehicle, mobile home, travel trailer, boat, or any other item of personal property owned or used by the person for which state registration or the payment of a state tax or fee is required, for the one year immediately prior to commencement of the semester or quarter for which application is made;~~

~~(2) Valid Washington driver's license for the one year immediately prior to the commencement of the quarter or semester for which application is made;~~

~~(3) Permanent full-time employment in the state of Washington during the one year immediately prior to commencement of the semester or quarter for which application is made;~~

~~(4) Address and other pertinent facts listed on a true and correct copy of federal and state income tax returns for the calendar year prior to the year in which application is made;~~

~~(5) Location of voter registration for the one-year period immediately prior to commencement of the semester or quarter for which application is made;~~

~~(6) Purchase of primary residence, lease agreement, or monthly rental receipts for one year immediately prior to commencement of the semester or quarter for which application is made;~~

~~(7) Residence status of the student in schools attended outside the state of Washington;~~

~~(8) Location of checking account, savings account, and/or safety deposit box for one year immediately prior to commencement of the semester or quarter for which application is made.~~

~~Additional factors may be considered at the request of a student as supporting documentation of a one-year durational domicile. Such factors may include, but are not limited to:~~

~~(1) Address of student listed on selective service registration;~~

~~(2) Location of membership in professional, business, civic or other organizations.)) for both the individual and his or her spouse. The weight assigned to any given factor should depend on the ease with which it might be established and the degree to which it demonstrates commitment to domicile as a matter of common sense and as part of the individual's overall circumstances.~~

(1) Location and duration of registration or payment of taxes or fees on any motor vehicle, mobile home, travel trailer, boat, or any other item of personal property owned or used by the person;

(2) State and duration of any driver's license for the previous one year;

(3) Location and duration of any continuous full-time employment for the previous one year;

(4) Address and other pertinent facts listed on a true and correct copy of federal and state income tax returns for the calendar year prior to the year in which application is made;

(5) Location and duration of any voter registration for the previous one year;

(6) Location and duration of primary residence, evidenced by title, lease agreement, or monthly rental receipts for the previous one year;

(7) Residence status in all secondary and post-secondary schools attended outside the state of Washington;

(8) Location and duration of any checking accounts, savings accounts, and/or safety deposit boxes for the previous one year;

(9) Address listed on selective service registration;

(10) Location of membership in professional, business, civic or other organizations;

(11) Receipt of benefits under a public assistance programs;

(12) State claimed as residence for obtaining eligibility to hold a public office or for judicial actions;

(13) State claimed as residence for obtaining state hunting or fishing licenses;

(14) State in which a custodial parent has a child attending public schools.

AMENDATORY SECTION (Amending Order 10-82, Resolution No. 83-1, filed 9/8/82)

WAC 250-18-035 Evidence of financial dependence or independence. A person is financially independent if he or she has not been and will not be claimed as an exemption and has not received and will not receive significant financial assistance in ~~((cash or in kind of an amount equal to or greater than that which would qualify him or her to be claimed as an exemption for federal income tax purposes by any person except his or her spouse))~~ any form directly or indirectly from his or her parents, relatives, or legal guardians for the current calendar year and for the calendar year immediately prior to the year in which application is made.

(1) To ~~((substantiate))~~ consider a ~~((reasonable presumption))~~ claim that a person is financially independent, the institution may require such documentation as deemed necessary, including but not limited to the following:

(a) That individual's sworn statement.

(b) A true and correct copy of the state and federal income tax return of the person for the calendar year immediately prior to the year in which application is made.

Should a person not have filed a state or federal income tax return because of minimal or no taxable income, documented information concerning the receipt of such nontaxable income may be submitted.

(c) A true and correct copy of the person's W-2 forms filed for the previous calendar year.

(d) Other documented financial resources~~((Such other resources))~~, which may include but are not ~~((be))~~ limited to~~((7))~~ the sale of personal or real property, inheritance, trust funds, state or financial assistance, gifts, loans, or statement of earnings of the spouse of a married student.

(e) A true and correct copy of the first and signature page of the state and federal tax returns of the parents, legally appointed guardians, or person or persons having legal custody of the student for the calendar year immediately prior to the year in which application is made.

The extent of the disclosure required concerning the parent's or legal guardian's state and federal tax returns shall be limited to the listing of dependents claimed and the signature of the taxpayer and shall not require disclosure of financial information contained in the returns.

(f) A student whose parents are both deceased or who has been made an official ward of the court may be required to provide documentation attesting to the fact of such

circumstances.

(g) Evidence of coverage for medical, life, automobile, and property insurance.

(2) To aid institutions in determining the financial independence of a student whose parents, legally appointed guardian, or person having legal custody of the student do not provide the documentation because of total separation or other reasons from the student, documentation clearly stating the student's status and relationship with his or her parents or legal guardian from a responsible third person, e.g., family physician, lawyer, or social worker may be submitted.

(3) To be considered financially independent, a student must demonstrate by evidence satisfactory to the institution that he or she has met, through his or her income, the expenses associated with college tuition and living for the current calendar year and the calendar year immediately prior to the year in which application is made. Personal loans, PLUS loans (parent loan for undergraduate students), gifts, and cash earnings shall not be counted as income in this calculation. Financial aid grants, scholarships and loans authorized by the financial aid office in the student's name may be considered as personal income.

(4) A trust or other account available to the student shall be considered evidence of financial dependence. If the account was created before the student entered high school, there shall be a rebuttable presumption of dependence.

(5) Information submitted by the student to the institution on the Washington financial aid form may be used to affirm the authenticity of information submitted on an application.

~~((+4))~~ (6) In all cases, the burden of proof that a student is financially independent lies with the student.

NEW SECTION

WAC 250-18-070 Prospective application of amendments.
Amendments to this chapter apply prospectively to the academic quarter, which commences subsequent to the adoption of the amendments.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 250-18-040

Evidence of financial dependency.



May 2003

Timeline: Student Residency Rules Change

Feb. 26	Formal notice of proposed rules change
Feb. 27 - March 5, a.m.	File pre-proposal (CR 101– no draft language required)
March 19	Publication in State Register
March 26	Board approval of first notice (CR 102 - with draft language) Resolution required
Apr 18 – Apr 23, a.m.	File CR 102 (with June 12 adoption date)
May 7	Publication in State Register
May 27	Hold public hearing on CR 102 (Seattle)
May 30	Hold public hearing on CR 102 (Pullman)
June 12	Board approval of permanent rules (CR 103) Resolution required
June 13	File CR 103
July 14	Permanent rules become effective
July 16	Publication in State Register
Fall 2003	New rules applied